Argument

Claims 45, 47, 49, and 58 were rejected under 35 U.S.C. 102(b) as being anticipated by Gerner (U.S. Patent 5,230,475). This rejection is respectfully traversed.

In the *Response to Arguments* section in the Final Office Action, we read, "By continuously monitoring the chipper speed, Gerner inherently monitors the chipper at various times. This meets the claimed subject matter of the rejected claims." As stated in the previous Amendment, the previously amended claim 45 clarifies what is meant by "monitoring." Specifically, there are three steps to what was originally claimed as "monitoring:"

- monitoring the condition of a machine at a first time;
- monitoring the condition of the machine at a second time later than the first time;
- *comparing* the condition at the first time to the condition at the second time.

Certainly Gerner discloses monitoring the chipper at various times. However, Gerner *does not* disclose a method including **comparing** information from the brush chipper at different times. Hence, Gerner cannot possibly modify the "performance of one of the engine, cutters, or feed rollers in response to said comparison." We conclude that Gerner did not anticipate the last two steps of claim 45 in the instant invention, and claim 45 is therefore allowable.

Instead, Gerner discloses: "...if the rotational speed of shaft 26 drops below the predetermined set speed (preferably about 1200-1300 revolutions per minute), speed sensor 119 will signal the control circuit to move main shuttle valve 92 to its second position which blocks hydraulic fluid flow through the valve (see FIG. 5)...In this event,

at least one of the conveyors and preferably both conveyors are stopped." (Col. 7 lines 32–41.)

Regarding claim 47, Gerner does not disclose utilizing "the monitored speeds of the cutters at the first *and* second times" (emphasis added) as an indication that "a maximum load condition will occur, because the engine speed has dropped or will drop below a predetermined speed." Further, Gerner does not use that indication based on speeds from the first and second times to stop the feed rollers. Therefore, Gerner does not anticipate every step of claim 47, making claim 47 allowable over Gerner.

Regarding claim 49, Gerner does not disclose "monitoring the condition of the hydraulic switch for sensing a predetermined high pressure in the hydraulic control at the first and second times;" and "if the *comparison* indicates the hydraulic switch senses said predetermined high pressure for a predetermined time duration, momentarily reversing the feed rollers for a predetermined period of time" (emphasis added).

Instead, Gerner discloses, "The relief valves 114, 116 will release the hydraulic pressure if such pressure builds beyond a designated level between main shuttle valve 92 and the hydraulic motors 62, 64." (Col. 5 lines 30–34.) Releasing the hydraulic pressure will not reverse the feed rollers.

Regarding claim 58, Gertler does not disclose, "calculating a rate of deceleration based on the monitored time sequence of events." Gertler does not suggest determining an acceleration or deceleration in his disclosure.

Claims 55–57 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gerner. This rejection is respectfully traversed.

The first Office Action states: "The limitations of these claims would have been design choices only once the basic process was known. For example, making several needed adjustments would have been obvious once it was known to make a single adjustment."

Regarding claim 55 which recites calculation of a deceleration rate, Gerner provides no teaching on calculating any value based on any monitored information. Further, no mention is made of deceleration or acceleration. Gerner does not suggest any structure with which to use such a calculation. It is therefore not obvious from Gerner to calculate the rate of deceleration of the rotation of the engine for the purpose of modifying the performance thereof.

Further, claims 55–57 depend on claim 45. Because amended claim 45 is now clearly allowable, these dependent claims are also presumed allowable.

Accordingly, because all remaining claims 45–58 are believed to be clearly allowable, a notice to that effect is earnestly solicited.